TTARA
Texas Taxpayers and Research Association

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The "New Normal" for School Districts?

Legislators swept into Austin on January 11 with all of the excitement and anticipation that accompanies the beginning of each legislative session. However, guarded optimism soon turned into gruesome reality in the form of an overall funding shortfall estimated by some to be as much as $27 billion for the upcoming biennium. This was new territory for legislators that were accustomed to divvying up *surplus* revenue to education, Medicaid, and other parts of the budget, and it immediately cast a pall over the entire session.

Schools had never faced the prospect of reduced funding in a legislative session. Arguments over school finance plan printouts were always about which districts received *more* funding than others. A printout with *any* negative numbers was usually a draft before a hold harmless provision turned those red numbers to black, and a printout with *all* negative numbers was ***unimaginable***. But that scenario became reality as the budget numbers were laid out for the 2012-2013 biennium.

The budgets filed by Chairmen Ogden and Pitts appropriated approximately $10 billion less than the amount school districts were entitled to under current law formulas for the upcoming biennium. After grimacing through many rounds of school district printouts replete with red ink, legislators were able to add back almost $6 billion, which brought them to a level that was still $4 billion below what current formulas calculated for the next two school years when estimates for enrollment growth and value declines were factored in. Education Committee Chairwoman Florence Shapiro (R-Plano), who led the Senate's efforts to make the cuts as painless as possible, stated that this could possibly be "the new normal" for school districts – they would have to do more with less.

School district officials have three potential tools that they can use alone or in combination to help them balance their budgets: (1) examine their budgets to identify areas of spending that can be trimmed back, (2) use money from their unencumbered fund balances to plug spending gaps, and (3) ask their voters to approve a tax rate increase — if they aren't one of the 216 school districts already at the maximum permissible rate. Many districts seem to have taken the third option off of the table after seeing the results of the recent Keller ISD tax ratification election, which failed with 56% of voters against the tax rate increase. It seems voters in Texas are in no mood to pay higher taxes, and many districts are keeping this option in reserve for another year.

After the $4 billion reduction level was agreed upon, legislators had to determine how to allocate it among the 1,024 school districts (funding for charter schools was also reduced proportionately). The discussions regarding how to reduce districts' funding soon turned into a battle between the property poor districts and the property wealthy districts. Property poor districts argued that they have historically operated on less revenue per student than property wealthy districts, and therefore should not be subjected to any reduction in revenue. Districts at higher spending levels argued that all districts should "share the pain" of these unprecedented funding reductions.

The 2006 tax relief measure passed by the Legislature provides revenue to school districts to reimburse them for lost local property tax revenue due to the compression of their M&O tax rates. This revenue is called "additional state aid for tax reduction" (ASATR) and flows to school districts on top of their formula funding (a district's formula funding plus ASATR is commonly called the district's "target revenue"). Not surprisingly, districts with higher taxable values per student lost the most property tax revenue and therefore receive more ASATR funding than their less property wealthy neighbors. Approximately 120 low wealth school districts receive all of their funding solely through the formulas. So it became a question of whether to reduce formula funding, ASATR revenue, or both.

A House-Senate compromise was reached in the last days of the regular session to reduce funding to all school districts across-the-board in the first year of the biennium, and to allocate higher percentage reductions to districts with high "target revenue" in the second year. The bill containing the compromise language, SB 1811, was killed by a two hour filibuster by Senator Wendy Davis (D-Fort Worth) on the last night of the regular session, but was resurrected in SB 1 during the first called session.

The across-the-board reductions were accomplished by introducing a "regular program adjustment factor" which reduces a district's entitlement for each student not in a special education or vocational education program. After this adjustment, districts receive 92.39% of their current law regular program entitlement and 100% of their ASATR in the 2011-2012 school year. In the 2012-2013 school year, they will receive 98% of their regular program funds and 92.35% of their ASATR. This results in reductions of 5.5% - 6% for each district in the first year, and 1% - 9% in the second. Because revenue for some formula-funded districts will be reduced by a larger percentage the first year than the second, they are faced with the prospect of laying off teachers in the upcoming school year and possibly re-hiring them in the next. To smooth the potential disparity, the Commissioner of Education is authorized to reset the regular program adjustment factor to **95.195%** for both school years.

Looking ahead to the next legislative session, the regular program adjustment factor is maintained at 98% for the 2014-2015 biennium, unless appropriated revenue allows for a higher percentage not to exceed 100%. The percentage of ASATR funding will be determined by appropriation for the 2014-2015 biennium, and ASATR is repealed entirely on September 1, 2017. But while SB 1 puts some long-term changes into law, many may never take effect. A joint legislative interim committee will be appointed by the Speaker and Lt. Governor to study the school finance system and make recommendations by January 15, 2013

In addition to the reductions in formula funding, a number of grant programs administered by the Texas Education Agency were dramatically scaled back or eliminated altogether. The Student Success Initiative and the District Awards for Teacher Excellence programs were slashed by approximately 90%, while grants for pre-kindergarten programs, science labs, and optional extended year programs were eliminated altogether.

Funding Reductions From Current Law Entitlement
2012-2013 Biennium

	2011-2012	2012-2013
Total % Reduction to individual school districts and charter schools from current law entitlement	**-5.5% to -6%**	**-1% to -9%**
% of current law regular program entitlement retained *(does not include special education or career and technology students)*	92.39%	98.00%
% of hold harmless revenue retained for 2006 tax reduction (ASATR)	100.00%	92.35%

Other School Finance Changes

- For the 2011-2012 school year, a school district that imposed an M&O tax for the 2010 tax year at the maximum rate allowed (i.e. $1.17), will be guaranteed $33.95 per weighted student for each penny that the district is currently guaranteed $31.95 (copper pennies). The property wealth level at which revenue will be recaptured will be increased to $339,500 per weighted student (from $319,500).

- A school board is authorized to charge for transportation to and from school if the district doesn't receive a transportation allotment.

- The state will guarantee charter school bonds using the Permanent School Fund, giving them a better bond rating.

- The Commissioner of Education will adopt a standard agreement that governs payment of funds relating to a student's enrollment in an electronic course offered through the state virtual school network and provide funding through the formulas for these courses. School districts and charter schools will adopt a policy that provides students with the opportunity to enroll in electronic courses provided through the state virtual school network.

- Funding for textbooks and technology are combined into a new "Instructional Materials Allotment" which will be funded by 50% of the annual distribution from the Permanent School Fund to the Available School Fund. The allotment can be used to purchase textbooks, magnetic media, open-source media, computer courseware, online services, DVD, CD-Rom, computer software, technological equipment used for instruction, supplementary materials, and pay training and salary costs for personnel who are directly involved in student learning or provide technical support for the use of technological equipment.

"Mandate Relief"

Because school districts will not be receiving the amount of per student revenue to which they are accustomed in the upcoming biennium, the Legislature passed SB 8, which contains a number of measures that will free them from many statutory mandates and provide flexibility in their budgeting process. Salary and benefits make up approximately 80% of a school district's budget, so these flexibility measures necessarily have the potential to affect school employees, and this bill and related bills were very contentious during both the regular and special sessions, with the teacher groups fighting against the bill and the school administrators and school board members in support. Listed below are some of the provisions that were changed:

- An existing provision was repealed that guarantees teachers, counselors, librarians, nurses, and speech pathologists will be paid at least the salary they were paid in the 2010-2011 school year if they remain at the same school district.

- Another provision was repealed that mandates that a reduction in force be applied in reverse order of seniority and requires that reductions be primarily based on teacher appraisals and other criteria determined by the school board.

- A school district can implement an unpaid furlough program of up to 6 days in order to reduce employees' salaries only if the Commissioner of Education certifies that the district will receive less state and local funding per weighted student than the district received in the 2010-2011 school year.

- If salaries paid to school district classroom teachers are reduced from the amount paid in the previous year due to financial hardship, the annual salary paid to each administrator must be reduced by an equal percentage.

- The date by which school districts must notify teachers that their contract will not be renewed is changed to the 10th day before the last day of instruction (from 45 days before the last day of instruction). The notice must be hand delivered or sent by prepaid certified mail or express delivery service.

- A school district with an enrollment of at least 5,000 students is authorized to designate an attorney to hold hearings on non-renewal of teacher contracts on behalf of the board of trustees.

- A school district is authorized to declare financial exigency as many times as necessary. The declaration expires at the end of the fiscal year unless the school board renews it. A school board must notify the Commissioner of Education when financial exigency is declared. The Commissioner of Education will adopt minimum standards that must exist for declaration of financial exigency.

- If a district declares financial exigency, the school board can change the terms of the superintendent's contract. A superintendent whose contract is changed can resign without penalty.

Most of these provisions will not be utilized by school districts in the upcoming school year because most budgets have already been set. But the following year will be even more challenging for many districts, and these changes should give them the needed flexibility to adopt a budget without too much angst.

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